

## Deanna Reynolds

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**From:** Nicholas Law  
**Sent:** Wednesday, 1 November 2023 16:39  
**To:** David Mountfort  
**Subject:** RE: 798 Longbeach Road - s95 and s88E

**Categories:** Yellow Category

Hi David,

Thanks for providing the survey information.

I think the shelter belt planting can be covered off in a consent condition, as proposed.

I've had a chat with Ian about the proposed no complaints covenant in the context of s95, and s104/NPS HPL.

### S95 and S88E

In terms of s95 I consider that limited weight can be placed on the no complaints covenant as the Council (and other authorities) cannot contract out of their enforcement obligations under the RMA or any other Act. Complaints could also still be made directly to the farmer, or the farmer may feel obligated to act differently even if no complaints were received.

The covenant would form a contract, but it is not clear who the parties to the contract would be or who would be responsible for taking action to enforce the contract.

In assessing the proposal – the change in use to a dwelling and its proximity to the farming activity - I consider that there are potentially minor adverse effects on the farmer (landowner and any farming operators at the site) due to potential reverse sensitivity effects, even with the proposed conditions and advice note.

I have placed the application on hold under s88E to allow for written approvals to be sought, but please advise if you wish to proceed to notification under s95 or wish to place the application on hold under s91.

### S104 & NPS HPL

I think there is still some value in the retention of the proposed covenant as it would support the alignment of the proposal with subclause 3.9(3)(b) of the NPS HPL\*. I suggest amending of the wording of the covenant by adding "or any other land based primary production activity as defined by the National Policy Statement for Highly Productive Land". This would broaden the range of activities to include forestry, spreading of dairy effluent (if not covered by 'irrigation'), horticulture, and other land based primary productions. It would not include intensive farming as defined by the Ashburton District Plan.

\*(Subclause 3.9(2) of the NPS HPL requires the measures in subclause (3) to also be applied. Subclause 3.9(3)(b) requires that territorial authorities take measures to ensure that any use or development on highly productive land "avoids if possible, or otherwise mitigates, any actual or potential reverse sensitivity effects on land-based primary production activities from the use or development".)

Let me know if you have any questions about the above.

Kind regards,  
Nicholas

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**From:** David Mountfort <david@mountfortplanning.co.nz>  
**Sent:** Friday, October 20, 2023 11:50 AM  
**To:** Nicholas Law <Nicholas.Law@adc.govt.nz>

**Cc:** Jenny Osborne <jenny.osborne11@gmail.com>  
**Subject:** 798 Longbeach Road - Request for further information

Hi Nick,

I refer to your request for further information dated 25 July 2023.  
Please find attached the survey information requested.

It is unclear to me that all the shelter belt plantings are within the property along the southern boundary and some trunks may be on or over it or very close to it. The trunks of the shelter belts along the northern and western boundaries are within the site, although branches do extend slightly across the boundaries.

It should be possible to craft a condition to the effect that all shelter belts within the boundaries be retained, and if any shelter belt trees that were planted on the neighbouring property are removed by the owners of that property then they are to be replaced with similar plantings within the boundaries.

With regard to tree species, the trees along the southern boundary are Lombardy poplars. There are a variety of other trees within the poplars, as shown on the Topo plan which are all within the boundary. The shelter belts along the western and northern boundaries are macrocarpa, and there is a belt of mostly indigenous shrubs along the eastern roadside boundary.

Please let me know if you require anything further

Regards

David Mountfort

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**From:** Alex Liggett <[alex@foxsurvey.co.nz](mailto:alex@foxsurvey.co.nz)>  
**Sent:** Monday, October 9, 2023 9:43 AM  
**To:** David Mountfort <[david@mountfortplanning.co.nz](mailto:david@mountfortplanning.co.nz)>; [jenny.osborne11@gmail.com](mailto:jenny.osborne11@gmail.com)  
**Subject:** (5664M) 798 Longbeach Road - Topo Plan

Hi Jenny, David,

Apologies for the delay in getting this information back to you – I have been on leave and working away from the office for the last week or so. Please find attached the topographic plan for Longbeach Road, in both .pdf and .dxf formats (I'm not sure if the latter is helpful but it is included just in case).

It looks like there is quite a bit of difference between the fencing and the boundaries (at least some of this is historic, the original survey plan from the 1960s shows the fence on the south side was nowhere near the boundary) and that the neighbour's pumpshed and tank are straddling the boundary. Let me know if you need any additional information around that. David, if you need any dimensions shown feel free to mark the plan up and send it back, or give me a call.

Kind regards

Alex Liggett | Senior Surveyor

Please note: My working hours are Monday to Thursday 8am to 6pm.



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